

103^D CONGRESS
1ST SESSION

H. R. 3298

To amend title XII of the National Housing Act to establish a national property reinsurance program to ensure the availability and affordability of property insurance in underserved areas.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 1993

Ms. WATERS introduced the following bill; which was referred to the
Committee on Banking, Finance and Urban Affairs

A BILL

To amend title XII of the National Housing Act to establish a national property reinsurance program to ensure the availability and affordability of property insurance in underserved areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Property
5 Reinsurance Act”.

6 **SEC. 2. PROGRAM AUTHORITY.**

7 Section 1201(b) of the National Housing Act (12
8 U.S.C. 1749bbb(b)) is amended—

1 (1) in the matter preceding paragraph (1)—

2 (A) by striking “November 30, 1983, and”

3 and inserting “September 30, 1999,”; and

4 (B) by striking “September 30, 1985” and

5 inserting “September 30, 1999”; and

6 (2) in paragraph (1)—

7 (A) by striking “1223(b)” and inserting

8 “1222(f)”; and

9 (B) by striking “September 30, 1985” and

10 inserting “September 30, 2000”.

11 **SEC. 3. STATEWIDE PLANS TO ASSURE FAIR ACCESS TO IN-**

12 **SURANCE REQUIREMENTS.**

13 (a) TARGETING OF UNDERSERVED AREAS.—The
14 first sentence of section 1211(b) of the National Housing
15 Act (12 U.S.C. 1749bbb–3(b)) is amended by inserting
16 “and underserved areas designated under subsection (d)”
17 before the period at the end.

18 (b) DETERMINATION OF UNDERSERVED AREAS.—
19 Section 1211 of the National Housing Act (12 U.S.C.
20 1749bbb–3) is amended by adding at the end the following
21 new subsection:

22 “(d) DESIGNATION OF UNDERSERVED AREAS.—For
23 purposes of this section, the Director shall designate areas
24 in each State in which property insurance coverage of the
25 type that may be reinsured under part B is not available

1 or affordable (or not sufficiently available or affordable)
 2 for residences or business and commercial properties.
 3 Such areas shall include urban and rural areas that his-
 4 torically have been subject to a lack of availability or af-
 5 fordability of such insurance. In designating such areas
 6 for a State, the Director shall consult with the Board
 7 under section 1202, the relevant State insurance authority
 8 for the State that supervises the plan under this part for
 9 the State, the governing or advisory board or committee
 10 referred to in subsection (c) for the plan in the State, in-
 11 surers and pools in the State, and community and
 12 consumer groups in the State. The Director shall from
 13 time to time review and, if necessary, revise the designa-
 14 tions of underserved areas under this subsection.”.

15 (c) STUDIES.—Section 1246(a)(2) of the National
 16 Housing Act (12 U.S.C. 1749bbb–16(a)(2)) is amended
 17 by inserting “and underserved areas designated under sec-
 18 tion 1211(d)” before the semicolon at the end.

19 **SEC. 4. NATIONAL PROPERTY REINSURANCE PROGRAM.**

20 Title XII of the National Housing Act (12 U.S.C.
 21 1749bbb et seq.) is amended by striking part B and insert-
 22 ing the following new part:

“PART B—NATIONAL PROPERTY REINSURANCE
PROGRAM

3 **“SEC. 1221. NATURE AND AVAILABILITY OF REINSURANCE**
4 **COVERAGE.**

5 “(a) IN GENERAL.—The Director may establish and
6 carry out a national property reinsurance program under
7 this part. Under such program, the Director may offer to
8 insurers or pools reinsurance against physical loss of prop-
9 erty or damage to property in any one or more States,
10 subject to the conditions under section 1222.

11 “(b) AVAILABILITY ONLY IN UNDERSERVED
12 AREAS.—Reinsurance under this part shall be available
13 only with respect to property insurance for property lo-
14 cated in underserved areas designated under section
15 1211(d).

“(c) ELIGIBILITY OF INSURANCE.—Reinsurance under this part shall be available only with respect to property insurance meeting requirements for reinsurance under this part as the Director shall, by regulation, establish. Such requirements shall include provisions regarding—

22 “(1) the type and locational classification of eli-
23 gible properties that are covered by insurance that
24 may be reinsured, which shall include such residen-

1 tial properties and business and commercial prop-
2 erties that the Director considers appropriate;

3 “(2) the specific types of property loss and
4 damage that are covered by insurance that may be
5 reinsured;

6 “(3) appropriate premium rates for such insur-
7 ance, based on generally accepted actuarial prin-
8 ciples, which provide appropriate loss deductibles, in-
9 cluding variable deductibles, taking into consider-
10 ation the existence and extent of measures and ac-
11 tivities taken to reduce the risk of loss to the in-
12 sured property for which reinsurance is provided;

13 “(4) appropriate limits of coverage for each
14 classification of eligible property; and

15 “(5) any other terms, conditions, or limitations
16 of insurance coverage that the Director considers ap-
17 propriate to carry out the reinsurance program
18 under this part.

19 “(d) AVAILABLE LINES.—Reinsurance under this
20 part shall be offered to an insurer or pool only on all of
21 the standard lines of property insurance specified in sub-
22 paragraphs (A) through (E) of section 1203(a)(13) to-
23 gether, and any insurer or pool purchasing such reinsur-
24 ance shall also be eligible to purchase reinsurance on any
25 one or more standard lines of property insurance specified

1 under paragraphs (F) through (J) of section 1203(a)(13)
2 or that may be designated by regulation pursuant to sub-
3 paragraph (K) of such section.

4 “(e) TEMPORARY COVERAGE.—

5 “(1) AUTHORITY.—Immediately after the en-
6 actment of the National Property Reinsurance Act,
7 the Director may provide reinsurance coverage under
8 this section in any State on a temporary basis to
9 any insurer or pool that meets the requirements
10 under section 1222(a), on such terms and conditions
11 as may be agreed upon.

12 “(2) BINDERS.—Coverage under such terms
13 and conditions may be bound with respect to any
14 such insurer or pool by means of a written binder
15 which shall remain in force not more than 12
16 months and shall expire upon the earlier of—

17 “(A) the termination of such 12-month pe-
18 riod; or

19 “(B) the effective date of any reinsurance
20 agreement entered into between the insurer or
21 pool and the Director under section 1223.

22 **“SEC. 1222. REQUIREMENTS FOR REINSURANCE.**

23 “(a) FAIR PLAN PARTICIPATION.—No reinsurance
24 may be offered to any insurer or pool in a State after rein-
25 surance coverage pursuant to reinsurance agreements

1 under section 1223 is made available (or in the case of
2 an insurer or pool that enters into a written binder under
3 section 1221(e), after the expiration of the binder) un-
4 less—

5 “(1) there is in effect in such State a plan
6 meeting the requirements under part A;

7 “(2) the insurer or pool is participating in such
8 plan; and

9 “(3) in the case of an insurer in a State in
10 which a pool has been established pursuant to State
11 law, the insurer is participating in such pool.

12 “(b) STATE REIMBURSEMENT.—The Director may
13 not offer reinsurance under this part in a State, and such
14 reinsurance shall not be applicable to insurance policies
15 written in the State by an insurer, unless the State has,
16 before the conclusion of the second full regular session of
17 the appropriate State legislative body beginning after the
18 date of the enactment of the National Property Reinsur-
19 ance Act, adopted appropriate legislation that—

20 “(1) provides that the State and its political
21 subdivisions, or a governmental corporation or fund
22 established pursuant to State law, shall reimburse
23 the Director for any reinsured losses in the State in
24 any reinsurance agreement year in the amount or

1 according to such formula as the Director shall pre-
2 scribe by regulation; and

3 “(2) is retroactive to the date of the enactment
4 of the National Property Reinsurance Act.

5 “(c) STATE PROPERTY INSURANCE PROGRAM.—
6 After the expiration of the 30-day period beginning upon
7 notification to the insurer that the Director has made a
8 finding under this subsection, reinsurance under this part
9 shall not be applicable to insurance policies written by an
10 insurer in a State for which the Director finds (after con-
11 sultation with the State insurance authority) that—

12 “(1) the State has not adopted a suitable pro-
13 gram or programs, in addition to plans under part
14 A, to make essential property insurance available
15 without regard to environmental hazards,

16 “(2) the property insurance industry in the
17 State has not adopted such a program or programs,
18 and

19 “(3) taking action under this subsection to
20 make reinsurance inapplicable to such insurance
21 policies is necessary to carry out the purposes of this
22 part.

23 “(d) PARTICIPATION OF INSURERS.—After the expi-
24 ration of the 30-day period beginning upon notification to
25 the insurer or the applicable State insurance authority

1 that the Director has made a finding under this sub-
2 section, reinsurance under this part shall not be applicable
3 to insurance policies written in a State by an insurer that
4 the Director finds (after consultation with the State insur-
5 ance authority) is not fully participating—

6 “(1) in the plan in the State,

7 “(2) where it exists, in a pool, and

8 “(3) where it exists, in any other program
9 found by the Director to aid in making essential
10 property insurance more readily available in the
11 State;

12 except that the Director may not make any such finding
13 with respect to any insurer unless (A) before making the
14 finding the Director has requested and considered the
15 views of the State insurance authority regarding whether
16 the finding should be made, or (B) the Director has made
17 such a request in writing to the State insurance authority
18 and such authority has failed to respond to the request
19 within a reasonable period of time after receiving the re-
20 quest.

21 “(e) MERGER OR WITHDRAWAL OF INSURERS.—Re-
22 insurance under this part shall not be applicable to insur-
23 ance policies written in a State by an insurer—

24 “(1) after such insurer participates in a merger,
25 acquisition, consolidation, or reorganization involving

1 1 or more insurers having lines of property insur-
2 ance in the State reinsured under this part and 1 or
3 more insurers with or without such reinsurance, un-
4 less the surviving company—

5 “(A) meets the criteria of eligibility for re-
6 insurance; and

7 “(B) within 10 days pays any reinsurance
8 premiums due; or

9 “(2) after receipt by the Director of written no-
10 tice from the insurer or pool that it is canceling its
11 reinsurance agreement with the Director in the
12 State.

13 “(f) CONTINUANCE OF EXISTING REINSURANCE
14 POLICIES.—Notwithstanding any other provision of this
15 section, reinsurance pursuant to a policy written before
16 the date of termination or nonrenewal of reinsurance
17 under this section may be continued for the term of the
18 policy, for such time as the insurer annually pays reinsur-
19 ance premiums in such amounts as are established under
20 section 1223, based on the annual premiums earned on
21 such reinsured policies. For purposes of this subsection,
22 any policy renewed, extended, modified, or otherwise
23 changed, for which any additional premium is charged for
24 such change, shall be considered to be a policy written on
25 the date such change was made.

1 **“SEC. 1223. REINSURANCE AGREEMENTS, PREMIUMS, AND**
2 **RETAINED LOSSES.**

3 “(a) IN GENERAL.—Reinsurance made available
4 under this part shall reimburse an insurer or pool for its
5 total proved and approved claims for covered physical loss
6 of property or damage to property during the term of the
7 reinsurance agreement under subsection (b) for the in-
8 surer or pool (and all direct expenses incurred in connec-
9 tion therewith, including expenses for processing, verify-
10 ing, and paying such claims) that are in excess of such
11 losses retained by the insurer or pool in accordance with
12 the regulations issued under subsection (d) and the rein-
13 surance agreement.

14 “(b) REINSURANCE AGREEMENTS.—Such reinsur-
15 ance shall be made available pursuant to a reinsurance
16 agreement, which shall be a contract, agreement, treaty,
17 or other arrangement for reinsurance coverage entered
18 into by the Director with an insurer or pool, in consider-
19 ation of payment of premiums, fees, or other charges by
20 the insurer or pool.

21 “(c) PREMIUMS.—The Director shall, by regulation,
22 establish the amount of premiums, fees, or other charges
23 to be charged under a reinsurance agreement, which shall
24 be the amount determined by the Director to be necessary
25 to cover the estimated amount of losses and other costs
26 of providing such reinsurance. The rates of the premiums,

1 fees, and other charges shall be established based upon
2 generally accepted actuarial principles and shall provide
3 for a minimum of cross-subsidization among classifica-
4 tions of reinsurance. In any single year, the rates under
5 contracts with insurers or pools throughout the States
6 shall be uniform. The Director may not change any pre-
7 miums, fees, or other charges except by regulations issued
8 in accordance with section 1247.

9 “(d) RETAINED LOSSES.—The Director shall, by reg-
10 ulation, establish the amount of losses that, under each
11 reinsurance agreement, an insurer or pool shall retain be-
12 fore reinsurance coverage under this part applies to losses
13 of the insurer or pool. Such amount shall be adequate to
14 further the purposes of this part and consistent with the
15 objective of maintaining appropriate financial participa-
16 tion and risk sharing to the maximum extent practicable
17 on the part of ceding insurers and pools. In establishing
18 such amount the Director shall consult with the Advisory
19 Board.

20 “(e) OTHER PROVISIONS.—Each reinsurance agree-
21 ment shall include terms and conditions similar to those
22 generally used in private catastrophe reinsurance con-
23 tracts, as the Director considers necessary or appropriate
24 to carry out the purposes of this part, and such other
25 terms and conditions as the Director considers necessary

1 or appropriate. Each reinsurance agreement shall provide
2 that any approved reinsurance claims payable under this
3 part shall be reduced by the amount of any reinsurance
4 collectible from sources other than the reinsurance pro-
5 gram under this part. In any single year, the terms and
6 conditions under reinsurance contracts with insurers or
7 pools throughout the States shall be uniform. The provi-
8 sions of section 1341(a) of title 31, United States Code,
9 shall not apply to reinsurance agreements under this sec-
10 tion.

11 “(f) CONTRACT TERM.—Each reinsurance agreement
12 shall be for a 12-month term expiring on September 30.

13 **“SEC. 1224. SUITS FOR RECOVERY OF PREMIUMS.**

14 “(a) IN GENERAL.—The Director may bring a suit
15 in the appropriate United States district court to recover
16 from any insurer the amount of any unpaid premiums for
17 reinsurance under this part lawfully payable by such in-
18 surer to the Director.

19 “(b) STATUTE OF LIMITATIONS.—

20 “(1) IN GENERAL.—No action or proceeding
21 shall be brought under subsection (a) or for the re-
22 covery of any premium paid to the Director in excess
23 of the amount due to the Director, after the expira-
24 tion of the 5-year period beginning upon the accrual
25 of the right for which the claim is made.

1 “(2) FRAUD.—Where an insurer has made or
2 filed with the Director a false or fraudulent annual
3 statement or other document with the intent to
4 evade, in whole or in part, the payment of pre-
5 miums, a right for which a claim may be made shall
6 not be considered to have accrued for purposes of
7 this subsection until its discovery by the Director.

8 **“SEC. 1225. NATIONAL PROPERTY REINSURANCE FUND.**

9 “(a) ESTABLISHMENT.—To carry out the national
10 property reinsurance program under this part, the Direc-
11 tor shall establish in the Treasury of the United States
12 a fund to be known as the National Property Reinsurance
13 Fund (in this section referred to as the “Fund”), which
14 shall be separate from the National Insurance Develop-
15 ment Fund established under section 1243. Amounts in
16 the Fund shall be available, to the extent provided in ap-
17 propriation Acts—

18 “(1) to make such payments as may, from time
19 to time, be required under reinsurance contracts
20 under this part;

21 “(2) to pay such administrative expenses as
22 may be necessary or appropriate to carry out this
23 part; and

24 “(3) to repay to the Secretary of the Treasury
25 any amounts, including interest thereon, as may be

1 borrowed for the Secretary under section 520(b) for
2 purposes of the national property reinsurance pro-
3 gram under this part.

4 “(b) CREDITS.—The Fund shall be credited with—

5 “(1) reinsurance premiums, fees, and other
6 charges paid or collected in connection with reinsur-
7 ance provided under this part;

8 “(2) any amounts appropriated for the Fund;

9 “(3) interest earned on the investments of the
10 Fund pursuant to subsection (c); and

11 “(4) amounts borrowed by the Director under
12 section 520(b) and deposited in the Fund.

13 “(c) INVESTMENT.—If the Director determines that
14 the amounts in the Fund are in excess of amounts needed
15 to carry out the national property reinsurance program
16 under this part, the Director may request the Secretary
17 of the Treasury to invest any excess amounts the Director
18 determines advisable in obligations issued or guaranteed
19 by the United States.

20 “(d) BUDGET.—An annual business-type budget for
21 the Fund shall be prepared, submitted to the Congress,
22 considered, and acted upon in the manner prescribed by
23 sections 9103 and 9104 of title 31, United States Code,
24 for wholly owned Government corporations.

1 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
2 is authorized to be appropriated to the Fund
3 \$250,000,000 for fiscal year 1995.”.

4 **SEC. 5. BORROWING AUTHORITY AND TAXATION.**

5 (a) BORROWING AUTHORITY.—Section 520(b) of the
6 National Housing Act (12 U.S.C. 1735d(b)) is amended—

7 (1) by striking “(1)”;

8 (2) by striking “, and (2)” and inserting “. The
9 Director of the Federal Emergency Management
10 Agency is authorized to borrow from the Treasury
11 from time to time such amounts as the Director
12 shall determine are necessary”; and

13 (3) by inserting “or Director” before “in bor-
14 rowing”.

15 (b) TAXATION.—Section 1250 of the National Hous-
16 ing Act (12 U.S.C. 1749bbb–20) is amended—

17 (1) in subsection (a)—

18 (A) by inserting “and the National Prop-
19 erty Reinsurance Fund” after “Fund”; and

20 (B) by striking “its reserves, surplus, and
21 income” and inserting “the reserves, surplus,
22 and income of such funds”; and

23 (2) in subsection (b), by striking “section
24 1223(a)(1)” and inserting “section 1222(b)”.

1 **SEC. 6. ADVISORY BOARD.**

2 (a) REESTABLISHMENT OF BOARD.—Notwithstand-
3 ing section 14 of the Federal Advisory Committee Act or
4 any other law, there is hereby reestablished the Advisory
5 Board under section 1202(a) of the National Housing Act.

6 (b) REAPPOINTMENT OF MEMBERS.—Not later than
7 the expiration of the 6-month period beginning on the date
8 of the enactment of this Act, the Director shall appoint
9 members of the Advisory Board referred to in subsection
10 (a) in accordance with the provisions of section 1202(a)
11 of the National Housing Act and, pursuant to paragraph
12 (2) of such section, shall designate a Chairman and Vice
13 Chairman of such Board.

14 (c) MEMBERSHIP.—Section 1202(a)(1) of the Na-
15 tional Housing Act (12 U.S.C. 1749bbb–1(a)(1)) is
16 amended—

17 (1) in the second sentence, by inserting “com-
18 munity and consumer groups,” after the last
19 comma; and

20 (2) in the last sentence—

21 (A) by striking “and” after “Govern-
22 ment,”;

23 (B) by striking “and” after “industry” and
24 inserting a comma; and

25 (C) by inserting before the period at the
26 end the following: “, and not less than 4 shall

1 be representatives of community and consumer
2 groups”.

3 (d) TERMINATION.—Section 1202 of the National
4 Housing Act (12 U.S.C. 1749bbb–1) is amended by add-
5 ing at the end the following new subsection:

6 “(e) The Board shall terminate upon the date re-
7 ferred to in section 1201(b)(1) that relates to section
8 1222(f).”.

9 (e) TECHNICAL CORRECTION.—Section 1202(d) of
10 the National Housing Act (12 U.S.C. 1749bbb–1(d)) is
11 amended by striking “rate for grade GS–18 of the General
12 Schedule under section 5332” and inserting “maximum
13 rate payable under section 5376”.

14 **SEC. 7. DEFINITIONS.**

15 Section 1203(a) of the National Housing Act (12
16 U.S.C. 1749bbb–2(a)) is amended—

17 (1) in paragraph (5)—

18 (A) by striking “and extended coverage en-
19 dorsement thereon” and inserting “, extended
20 coverage endorsement thereon, and policies for
21 other allied lines of fire insurance”; and

22 (B) by striking “. Such” and inserting “;
23 such”;

24 (2) by striking paragraph (9) and inserting the
25 following new paragraph:

1 “(9) The term ‘reinsurance agreement’ means a
2 reinsurance agreement under section 1223(b).”;

3 (3) in paragraph (13)(K), by striking “damage
4 from riot or civil commotion” and inserting “loss of
5 or damage to property,”; and

6 (4) by striking paragraph (14) and inserting
7 the following new paragraph:

8 “(14) The term ‘State’ means the States of the
9 United States, the District of Columbia, the Com-
10 monwealth of Puerto Rico, the Commonwealth of the
11 Northern Mariana Islands, Guam, the Virgin Is-
12 lands, American Samoa, the Trust Territory of the
13 Pacific Islands, and any other territory or possession
14 of the United States.”.

15 **SEC. 8. CONFORMING AMENDMENTS.**

16 (a) NATIONAL INSURANCE DEVELOPMENT FUND.—
17 Section 1243 of the National Housing Act (12 U.S.C.
18 1749bbb–13) is amended—

19 (1) in subsection (a)—

20 (A) in the matter preceding paragraph (1),
21 by striking “programs authorized under this
22 title” and inserting “insurance program author-
23 ized under part C”;

24 (B) in paragraph (1), by striking “reinsur-
25 ance and direct insurance contracts under this

1 title” and inserting “direct insurance contracts
2 under such part”;

3 (C) in paragraph (2), by inserting “(not
4 including such expenses for carrying out part
5 B)” after “title”; and

6 (D) in paragraph (3), by striking “pro-
7 grams” and inserting “program”;

8 (2) in subsection (b)(1)—

9 (A) by striking “reinsurance and” each
10 place it appears; and

11 (B) by striking “parts B and” and insert-
12 ing “part”; and

13 (3) in paragraph (6), by inserting “for purposes
14 of the program under part C” after “section
15 520(b)”.

16 (b) REPEAL.—Section 1245 of the National Housing
17 Act (12 U.S.C. 1749bbb–15) is hereby repealed.

18 **SEC. 9. REGULATIONS AND EFFECTIVE DATE.**

19 The Secretary shall issue regulations pursuant to sec-
20 tion 1247 of the National Housing Act necessary to carry
21 out the amendments made by this Act. Such regulations
22 shall be issued not later than 6 months after the date of
23 the enactment of this Act and shall provide for the avail-
24 ability of reinsurance coverage under part B of title XII
25 of such Act (pursuant to reinsurance agreements under

- 1 section 1223 of such Act) not later than 12 months after
- 2 such date of enactment.

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